

**441—77.18(249A) Orthopedic shoe dealers and repair shops.** Establishments eligible to participate in the medical assistance program are retail dealers in orthopedic shoes prescribed by physicians or podiatrists and shoe repair shops specializing in orthopedic work as prescribed by physicians or podiatrists.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.19(249A) Rehabilitation agencies.** Rehabilitation agencies are eligible to participate providing they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

This rule is intended to implement Iowa Code section 249A.4.

**441—77.20(249A) Independent laboratories.** Independent laboratories are eligible to participate providing they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

This rule is intended to implement Iowa Code section 249A.4.

**441—77.21(249A) Rural health clinics.** Rural health clinics are eligible to participate providing they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

**441—77.22(249A) Psychologists.** All psychologists licensed to practice in the state of Iowa and meeting the standards of the National Register of Health Service Providers in Psychology, 1981 edition, published by the council for the National Register of Health Service Providers in Psychology, are eligible to participate in the medical assistance program. Psychologists in other states are eligible to participate when they are duly licensed to practice in that state and meet the standards of the National Register of Health Service Providers in Psychology.

This rule is intended to implement Iowa Code sections 249A.4 and 249A.15.

**441—77.23(249A) Maternal health centers.** A maternal health center is eligible to participate in the Medicaid program if the center provides a team of professionals to render prenatal and postpartum care and enhanced perinatal services (see rule 441—78.25(249A)). The prenatal and postpartum care shall be in accordance with the latest edition of the American College of Obstetricians and Gynecologists, Standards for Obstetric Gynecologic Services. The team must have at least a physician, a registered nurse, a licensed dietitian and a person with at least a bachelor's degree in social work, counseling, sociology or psychology. Team members must be employed by or under contract with the center.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.24(249A) Ambulatory surgical centers.** Ambulatory surgical centers which are not part of hospitals are eligible to participate in the medical assistance program if they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

**441—77.25(249A) Genetic consultation clinics.** A genetic counseling clinic is eligible to participate in the Medicaid program if the clinic provides a team of professionals to render the genetic medical and counseling services. The team must have at least a physician geneticist certified or eligible for certification by the American Board of Medical Geneticists (ABMG) and at least one of the following professionals as defined by ABMG: a nurse, a genetic associate, a social worker, or a genetic counselor.

These services may be provided by employees or under contract arrangement with the clinic. The team will provide services under the clinical supervision of the physician and the physician shall be on the clinic premises when services are provided.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.26(249A) Nurse-midwives.** Advanced registered nurse practitioners are eligible to participate in the Medicaid program if they are duly licensed by the state of Iowa and if they possess evidence of certification as a nurse-midwife as set forth in board of nursing rules 655—Chapter 7. Advanced registered nurse practitioners in other states shall be eligible to participate if they are duly licensed in that state and they possess evidence of certification to practice as a nurse-midwife according to the standards imposed by that state.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.27(249A) Birth centers.** Birth centers are eligible to participate in the Medicaid program if they are licensed or receive reimbursement from at least two third-party payors.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.28(249A) Area education agencies.** An area education agency is eligible to participate in the Medicaid program when it has a plan for providing comprehensive special education programs and services approved by the department of education.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.29(249A) Case management provider organizations.** Case management provider organizations are eligible to participate in the Medicaid program provided that they meet the standards in 441—Chapter 24 and they are the department of human services, a county or consortium of counties, or an agency or provider under subcontract to the department or a county or consortium of counties.

**441—77.30(249A) HCBS ill and handicapped waiver service providers.** The following HCBS ill and handicapped waiver service providers shall be eligible to participate in the Medicaid program provided that they meet the standards set forth below:

**77.30(1) Homemaker providers.** Homemaker providers shall be agencies which meet the home care standards and requirements set forth in department of public health rules, 641—80.5(135), 641—80.6(135), and 641—80.7(135) or which are certified as a home health agency under Medicare.

**77.30(2) Home health aide providers.** Home health aide providers shall be agencies which are certified to participate in the Medicare program.

**77.30(3) Adult day care providers.** Adult day care providers shall meet one of the following conditions:

*a.* The provider shall have a contract with the Veterans Administration to provide adult day health care.

*b.* The provider shall meet one of the following conditions individually or as an integral service provided by an organization:

(1) Accreditation by the Joint Commission on Accreditation of Health Care Organizations.

- (2) Accreditation by the Commission on Accreditation of Rehabilitation Agencies.
- (3) Rescinded IAB 3/10/99, effective 5/1/99.
- (4) Existence of a contract with or receipt of a point-in-time letter of certification from the department of elder affairs or an area agency on aging pursuant to standards set forth in department of elder affairs rules 321—24.1(231) to 321—24.8(231).

**77.30(4) *Nursing care providers.*** Nursing care providers shall be agencies which are certified to participate in the Medicare program as home health agencies.

**77.30(5) *Respite care providers.*** The following providers may provide respite care:

- a. Home health agencies which meet the conditions of participation set forth in 77.30(2) above.
- b. Respite providers certified under the HCBS MR waiver.
- c. Nursing facilities, intermediate care facilities for the mentally retarded, and hospitals certified to participate in the Medicaid program.
- d. Child foster care facilities licensed by the department according to 441—Chapters 112 to 116.
- e. Camps accredited by the American Camping Association.
- f. Home care agencies which meet the conditions of participation set forth in 77.30(1).
- g. Adult day care providers which meet the conditions of participation set forth in subrule 77.30(3).

**77.30(6) *Counseling providers.*** Counseling providers shall be:

- a. Agencies which are certified under the community mental health center standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and III.
- b. Agencies which are licensed as meeting the hospice standards and requirements set forth in department of inspections and appeals rules 481—Chapter 53 or which are certified to meet the standards under the Medicare program for hospice programs.
- c. Agencies which are accredited under the mental health service provider standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and IV.

**77.30(7) *Consumer-directed attendant care service providers.*** The following providers may provide consumer-directed attendant care service:

- a. An individual who contracts with the consumer to provide attendant care service and who is:
  - (1) At least 18 years of age.
  - (2) Qualified by training or experience to carry out the consumer's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
  - (3) Not the spouse of the consumer or a parent or stepparent of a consumer aged 17 or under.
  - (4) Not the recipient of respite services paid through home- and community-based services on the behalf of a consumer who receives home- and community-based services.
- b. Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).
- c. Home health agencies which are certified to participate in the Medicare program.
- d. Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating that the organization is qualified to provide chore services.

- e.* Community action agencies as designated in Iowa Code section 216A.93.
- f.* Providers certified under an HCBS waiver for supported community living.
- g.* Assisted living programs that are voluntarily accredited or certified by the department of elder affairs.
- h.* Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.31(249A) Nurse anesthetists.** Nurse anesthetists are eligible to participate in the Medicaid program if they are duly licensed by the state of Iowa and (1) they possess evidence of certification as a certified registered nurse anesthetist as set forth in board of nursing rules 655—Chapter 7 or (2) within the past 18 months, they have graduated from a nurse anesthesia program meeting the standards set forth by a national association of nurse anesthetists and are awaiting initial certification by a national association of nurse anesthetists approved by the board of nursing. Nurse anesthetists in other states shall be eligible to participate if they are duly licensed in that state and meet requirements (1) or (2) above. Nurse anesthetists who have been certified eligible to participate in Medicare will be considered as having met the above-stated guidelines.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.32(249A) Hospice providers.** Hospice providers are eligible to participate in the Medicaid program providing they are certified to participate in the Medicare program.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.33(249A) HCBS elderly waiver service providers.** The following HCBS elderly waiver service providers shall be eligible to participate in the Medicaid program provided that they meet the standards set forth below:

**77.33(1) Adult day care providers.** Adult day care providers shall meet one of the following conditions:

- a.* Contract with the Veterans Administration to provide adult day health care.
- b.* Meet one of the following conditions individually or as an integral service provided by an organization:
  - (1) Accreditation by the Joint Commission on Accreditation of Health Care Organizations.
  - (2) Accreditation by the Commission on Accreditation of Rehabilitation Agencies.
  - (3) Rescinded IAB 3/10/99, effective 5/1/99.
  - (4) Existence of a contract with or receipt of a point-in-time letter of certification from the department of elder affairs or an area agency on aging pursuant to standards set forth in department of elder affairs rules 321—24.1(231) to 321—24.8(231).

**77.33(2) Emergency response system providers.** Emergency response system providers must meet the following standards:

a. The agency shall provide an electronic component to transmit a coded signal via digital equipment over telephone lines to a central monitoring station. The central monitoring station must operate receiving equipment and be fully staffed by trained attendants, 24 hours a day, seven days per week. The attendants must process emergency calls and ensure the timely notification of appropriate emergency resources to be dispatched to the person in need.

b. The agency, parent agency, institution or corporation shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

c. There shall be a governing authority which is responsible for establishing policy and ensuring effective control of services and finances. The governing authority shall employ or contract for an agency administrator to whom authority and responsibility for overall agency administration are delegated.

d. The agency or institution shall be in compliance with all legislation relating to prohibition of discriminatory practices.

e. There shall be written policies and procedures established to explain how the service operates, agency responsibilities, client responsibilities and cost information.

**77.33(3) Home health aide providers.** Home health aide providers shall be agencies certified to participate in the Medicare program as home health agencies.

**77.33(4) Homemaker providers.** Homemaker providers shall be agencies which meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135) or which are certified as a home health agency under Medicare.

**77.33(5) Nursing care.** Nursing care providers shall be agencies which are certified to participate in the Medicare program as home health agencies.

**77.33(6) Respite care providers.** The following providers may provide respite care:

a. Home health agencies certified by Medicare.

b. Nursing facilities and hospitals certified to participate in the Medicaid program.

c. Camps accredited by the American Camping Association.

d. Respite providers certified under the HCBS MR waiver.

e. Home care agencies which meet the conditions of participation set forth in subrule 77.33(4).

f. Adult day care providers which meet the conditions set forth in subrule 77.33(1).

**77.33(7) Chore providers.** The following providers may provide chore services:

a. Area agencies on aging as designated in 321—4.4(231). Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide chore services may also provide chore services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Home health aide providers meeting the standards set forth in subrule 77.33(3). Home health aide providers contracting with the department of public health shall be considered to have met these standards.

d. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

e. Providers certified under the HCBS MR waiver.

**77.33(8) *Home-delivered meals.*** The following providers may provide home-delivered meals:

- a. Area agencies on aging as designated in 321—4.4(231). Home-delivered meals providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home-delivered meals services may also provide home-delivered meals services.
- b. Community action agencies as designated in Iowa Code section 216A.93.
- c. Nursing facilities licensed pursuant to Iowa Code chapter 135C.
- d. Restaurants licensed and inspected under Iowa Code chapter 137B.
- e. Hospitals enrolled as Medicaid providers.
- f. Home health aide providers meeting the standards set forth in subrule 77.33(3).
- g. Medical equipment and supply dealers certified to participate in the Medicaid program.
- h. Home care providers meeting the standards set forth in subrule 77.33(4).

**77.33(9) *Home and vehicle modification providers.*** The following providers may provide home and vehicle modification:

- a. Area agencies on aging as designated in 321—4.4(231). Home and vehicle modification providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home and vehicle modification services may also provide home and vehicle modification services.

- b. Community action agencies as designated in Iowa Code section 216A.93.

- c. Home and vehicle modification providers certified under the HCBS MR waiver.

**77.33(10) *Mental health outreach providers.*** Community mental health centers or other mental health providers accredited by the mental health and developmental disabilities commission pursuant to 441—Chapter 24 may provide mental health outreach services.

**77.33(11) *Transportation providers.*** The following providers may provide transportation:

- a. Area agencies on aging as designated in 321—4.4(231). Transportation providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide transportation services may also provide transportation services.

- b. Community action agencies as designated in Iowa Code section 216A.93.

- c. Regional transit agencies as recognized by the Iowa department of transportation.

- d. Rescinded IAB 3/10/99, effective 5/1/99.

- e. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

**77.33(12) *Nutritional counseling.*** The following providers may provide nutritional counseling by a licensed dietitian:

- a. Hospitals enrolled as Medicaid providers.

- b. Community action agencies as designated in Iowa Code section 216A.93.

- c. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

- d. Home health agencies certified by Medicare.

- e. Licensed dietitians approved by an area agency on aging.

**77.33(13)** *Assistive devices providers.* The following providers may provide assistive devices:

- a. Medicaid-eligible medical equipment and supply dealers.
- b. Area agencies on aging as designated according to department of elder affairs rules 321—4.3(249D) and 321—4.4(249D).
- c. Assistive devices providers with a contract with an area agency on aging or with a letter of approval from an area agency on aging stating the organization is qualified to provide assistive devices.

**77.33(14)** *Senior companions.* Senior companion programs designated by the Corporation for National and Community Service may provide senior companion service.

**77.33(15)** *Consumer-directed attendant care service providers.* The following providers may provide consumer-directed attendant care service:

- a. An individual who contracts with the consumer to provide attendant care service and who is:
  - (1) At least 18 years of age.
  - (2) Qualified by training or experience to carry out the consumer's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
  - (3) Not the spouse of the consumer.
  - (4) Not the recipient of respite services paid through home- and community-based services on the behalf of a consumer who receives home- and community-based services.

b. Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).

- c. Home health agencies which are certified to participate in the Medicare program.
- d. Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating that the organization is qualified to provide chore services.
- e. Community action agencies as designated in Iowa Code section 216A.93.
- f. Providers certified under an HCBS waiver for supported community living.
- g. Assisted living programs that are voluntarily accredited or certified by the department of elder affairs.

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.34(249A) HCBS AIDS/HIV waiver service providers.** The following HCBS AIDS/HIV waiver service providers shall be eligible to participate in the Medicaid program provided that they meet the standards set forth below:

**77.34(1)** *Counseling providers.* Counseling providers shall be:

- a. Agencies which are certified under the community mental health center standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and III.

b. Agencies which are licensed as meeting the hospice standards and requirements set forth in department of inspections and appeals rules 481—Chapter 53 or which are certified to meet the standards under the Medicare program for hospice programs.

c. Agencies which are accredited under the mental health service provider standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and IV.

**77.34(2) Home health aide providers.** Home health aide providers shall be agencies which are certified to participate in the Medicare program.

**77.34(3) Homemaker providers.** Homemaker providers shall be agencies which meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135) and 641—80.7(135), or which are certified as a home health agency under Medicare.

**77.34(4) Nursing care providers.** Nursing care providers shall be agencies which are certified to meet the standards under the Medicare program for home health agencies.

**77.34(5) Respite care providers.** Respite care providers shall be:

- a. Home health agencies which meet the conditions of participation set forth in subrule 77.34(2).
- b. Nursing facilities, intermediate care facilities for the mentally retarded, or hospitals certified to participate in the Medicaid program.
- c. Respite providers certified under the HCBS MR waiver.
- d. Child foster care facilities licensed by the department according to 441—Chapters 112 to 116.
- e. Camps accredited by the American Camping Association.
- f. Home care agencies which meet the conditions of participation set forth in subrule 77.34(3).
- g. Adult day care providers which meet the conditions of participation set forth in subrule 77.34(7).

**77.34(6) Home-delivered meals.** The following providers may provide home-delivered meals:

- a. Home health aide providers meeting the standards set forth in subrule 77.34(2).
- b. Home care providers meeting the standards set forth in subrule 77.34(3).
- c. Hospitals enrolled as Medicaid providers.
- d. Nursing facilities licensed pursuant to Iowa Code chapter 135C.
- e. Restaurants licensed and inspected under Iowa Code chapter 137B.
- f. Community action agencies as designated in Iowa Code section 216A.93. Home-delivered meals providers subcontracting with community action agencies or with letters of approval from the community action agencies stating the organization is qualified to provide home-delivered meals services may also provide home-delivered meals services.
- g. Area agencies on aging as designated in 321—4.4(231). Home-delivered meals providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home-delivered meals services may also provide home-delivered meals services.

h. Medical equipment and supply dealers certified to participate in the Medicaid program.

**77.34(7) Adult day care providers.** Adult day care providers shall meet one of the following conditions:

- a. The provider shall have a contract with the Veterans Administration to provide adult day health care.



b. The provider shall meet one of the following conditions individually or as an integral service provided by an organization:

- (1) Accreditation by the Joint Commission on Accreditation of Health Care Organizations.
- (2) Accreditation by the Commission on Accreditation of Rehabilitation Agencies.
- (3) Rescinded IAB 3/10/99, effective 5/1/99.
- (4) Existence of a contract with or receipt of a point-in-time letter of certification from the department of elder affairs or an area agency on aging pursuant to standards set forth in department of elder affairs rules 321—24.1(231) to 321—24.8(231).

**77.34(8) Consumer-directed attendant care service providers.** The following providers may provide consumer-directed attendant care service:

- a. An individual who contracts with the consumer to provide attendant care service and who is:
  - (1) At least 18 years of age.
  - (2) Qualified by training or experience to carry out the consumer's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
  - (3) Not the spouse of the consumer or a parent or stepparent of a consumer aged 17 or under.
  - (4) Not the recipient of respite services paid through home- and community-based services on the behalf of a consumer who receives home- and community-based services.

b. Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).

- c. Home health agencies which are certified to participate in the Medicare program.
- d. Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating that the organization is qualified to provide chore services.
- e. Community action agencies as designated in Iowa Code section 216A.93.
- f. Providers certified under an HCBS waiver for supported community living.
- g. Assisted living programs that are voluntarily accredited or certified by the department of elder affairs.

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.35(249A) Federally qualified health centers.** Federally qualified health centers are eligible to participate in the Medicaid program when the Health Care Financing Administration has notified the Medicaid program of their eligibility as allowed by Section 6404(b) of Public Law 101-239.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.36(249A) Family or pediatric nurse practitioner.** Advanced registered nurse practitioners are eligible to participate in the Medicaid program if they are duly licensed by the state of Iowa and they possess evidence of certification as a certified family nurse practitioner or certified pediatric nurse practitioner as set forth in board of nursing rules 655—Chapter 7. Advanced registered nurse practitioners in other states shall be eligible to participate if they are duly licensed in that state and are certified as a family nurse practitioner or a pediatric nurse practitioner. Family or pediatric nurse practitioners who have been certified eligible to participate in Medicare shall be considered as having met the above-stated guidelines.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.37(249A) HCBS MR waiver service providers.** Supported community living and supported employment providers shall be eligible to participate as approved HCBS MR service providers in the Medicaid program based on the outcome-based standards set forth below in subrules 77.37(1) and 77.37(2) evaluated according to subrules 77.37(10) to 77.37(12), the requirements of subrules 77.37(3) to 77.37(9), and the applicable subrules pertaining to the individual service. Respite providers shall meet the conditions set forth in subrules 77.37(1) and 77.37(15). Home and vehicle modification shall meet the conditions set forth in subrule 77.37(17). Personal emergency response system providers shall meet the conditions set forth in subrule 77.37(18). Nursing providers shall meet the conditions set forth in subrule 77.37(19). Home health aide providers shall meet the conditions set forth in subrule 77.37(20). Consumer-directed attendant care providers shall meet the conditions set forth in subrule 77.37(21).

**77.37(1) Organizational standards (Outcome 1).** Organizational outcome-based standards for HCBS MR providers are as follows:

- a. The organization demonstrates the provision and oversight of high-quality supports and services to consumers.
- b. The organization demonstrates a defined mission commensurate with consumer's needs, desires, and abilities.
- c. The organization establishes and maintains fiscal accountability.
- d. The organization has qualified staff commensurate with the needs of the consumers they serve. These staff demonstrate competency in performing duties and in all interactions with clients.
- e. The organization provides needed training and supports to its staff. This training includes at a minimum:
  - (1) Consumer rights.
  - (2) Confidentiality.
  - (3) Provision of consumer medication.
  - (4) Identification and reporting of child and dependent adult abuse.
  - (5) Individual consumer support needs.
- f. The organization demonstrates methods of evaluation.
  - (1) Past performance is reviewed.
  - (2) Current functioning is evaluated.
  - (3) Plans are made for the future based on the evaluation and review.
- g. Consumers and their legal representatives have the right to appeal the provider's implementation of the 20 outcomes, or staff or contractual person's action which affects the consumer. The provider shall distribute the policies for consumer appeals and procedures to consumers.

*h.* The provider shall have written policies and procedures and a staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to 441—Chapters 175 and 176.

*i.* The governing body has an active role in the administration of the agency.

*j.* The governing body receives and uses input from a wide range of local community interests and consumer representation and provides oversight that ensures the provision of high-quality supports and services to consumers.

**77.37(2) *Rights and dignity.*** Outcome-based standards for rights and dignity are as follows:

- a.* (Outcome 2) Consumers are valued.
- b.* (Outcome 3) Consumers live in positive environments.
- c.* (Outcome 4) Consumers work in positive environments.
- d.* (Outcome 5) Consumers exercise their rights and responsibilities.
- e.* (Outcome 6) Consumers have privacy.
- f.* (Outcome 7) When there is a need, consumers have support to exercise and safeguard their rights.
- g.* (Outcome 8) Consumers decide which personal information is shared and with whom.
- h.* (Outcome 9) Consumers make informed choices about where they work.
- i.* (Outcome 10) Consumers make informed choices on how they spend their free time.
- j.* (Outcome 11) Consumers make informed choices about where and with whom they live.
- k.* (Outcome 12) Consumers choose their daily routine.
- l.* (Outcome 13) Consumers are a part of community life and perform varied social roles.
- m.* (Outcome 14) Consumers have a social network and varied relationships.
- n.* (Outcome 15) Consumers develop and accomplish personal goals.
- o.* (Outcome 16) Management of consumers' money is addressed on an individualized basis.
- p.* (Outcome 17) Consumers maintain good health.
- q.* (Outcome 18) The consumer's living environment is reasonably safe in the consumer's home and community.
- r.* (Outcome 19) The consumer's desire for intimacy is respected and supported.
- s.* (Outcome 20) Consumers have an impact on the services they receive.

**77.37(3) *Contracts with consumers.*** The provider shall have written procedures which provide for the establishment of an agreement between the consumer and the provider.

*a.* The agreement shall define the responsibilities of the provider and the consumer, the rights of the consumer, the services to be provided to the consumer by the provider, all room and board and copay fees to be charged to the consumer and the sources of payment.

*b.* Contracts shall be reviewed at least annually.

**77.37(4) *The right to appeal.*** Consumers and their legal representatives have the right to appeal the provider's application of policies or procedures, or any staff or contractual person's action which affects the consumer. The provider shall distribute the policies for consumer appeals and procedures to consumers.

**77.37(5) *Storage and provision of medication.*** If the provider stores, handles, prescribes, dispenses or administers prescription or over-the-counter medications, the provider shall develop procedures for the storage, handling, prescribing, dispensing or administration of medication. For controlled substances, procedures shall be in accordance with department of inspections and appeals rule 481—63.18(135).

If the provider has a physician on staff or under contract, the physician shall review and document the provider's prescribed medication regime at least annually in accordance with current medical practice.

**77.37(6) Research.** If the provider conducts research involving human subjects, the provider shall have written policies and procedures for research which ensure the rights of consumers and staff.

**77.37(7) Abuse reporting requirements.** The provider shall have written policies and procedures and a staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to 441—Chapters 175 and 176.

**77.37(8) Minimizing barriers to services.** Services shall be delivered in a manner which minimizes barriers to the receipt of services.

**77.37(9) Intake, admission, service coordination, discharge, and referral.**

a. The provider shall have written policies and procedures according to state and federal laws for intake, admission, service coordination, discharge and referral. Service coordination means activities designed to help individuals and families locate, access, and coordinate a network of supports and services that will allow them to live a full life in the community.

b. The provider shall ensure the rights of persons applying for services.

**77.37(10) Certification process.** Reviews of compliance with standards for initial certification and recertification shall be conducted by the department of human services' division of mental health and developmental disabilities quality assurance staff. Certification carries no assurance that the approved provider will receive funding.

a. The provider shall request an application from CONSULTEC.

b. The provider shall submit an application to CONSULTEC using Form 470-2917, HCBS Application for Certification. The application shall be submitted to Provider Enrollment, CONSULTEC, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422.

c. The applicant shall submit the completed application to CONSULTEC at least 90 days before the planned service implementation date. CONSULTEC shall forward the application to the department for processing.

d. The department may request any information from the prospective service provider which is considered pertinent to arriving at a certification decision. This may include, but is not limited to:

(1) Current accreditations, evaluations, inspections and reviews by regulatory and licensing agencies and associations.

(2) Fiscal capacity of the prospective provider to initiate and operate the specified programs on an ongoing basis.

(3) The prospective provider's written agreement to work cooperatively with the state and central point of coordination in the counties and the state to be served by the provider.

**77.37(11) Initial certification.** The department shall review the application and accompanying information to see if the provider has the necessary framework to provide services in accordance with all applicable requirements and standards.

a. The department shall make a determination regarding initial certification within 60 days of receipt of the application and notify the provider in writing of the decision unless extended by mutual consent of the parties involved. Providers shall be responsible for notifying the appropriate county and the appropriate central point of coordination of the determination.

b. The decision of the department on initial certification of the providers shall be based on all relevant information, including:

(1) The application for status as an approved provider according to requirements of rules.

(2) A determination of the financial position of the prospective provider in relation to its ability to meet the stated need.

(3) The prospective provider's coordination of service design, development, and application with the applicable local county central point of coordination and other interested parties.

c. Providers applying for initial certification shall be offered technical assistance.

**77.37(12) *Period of certification.*** Provider certification shall become effective on the date identified on the certificate of approval and shall terminate in 270 calendar days, one year, or three calendar years from the month of issue. The renewal of certification shall be contingent upon demonstration of continued compliance with certification requirements.

a. Initial certification. Providers eligible for initial certification by the department shall be issued an initial certification for 270 calendar days based on documentation provided.

b. Recertification. After the initial certification, the level of certification shall be based on an on-site review unless the provider has been accredited for similar services by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation of Rehabilitation Facilities (CARF), the Council on Quality and Leadership in Supports for People with Disabilities (The Council), or the Council on Accreditation of Services for Families and Children (COA). The on-site reviews for supported community living and supported employment use interviews with consumers and significant people in the consumer's life to determine whether or not the 20 individual value-based outcomes set forth in subrules 77.37(1) and 77.37(2) and corresponding processes are present for the consumer. Respite services are required to meet Outcome 1 and participate in satisfaction surveys.

Once the outcomes and processes have been determined for all the consumers in the sample, a review team then determines which of the 20 outcomes and processes are present for the provider. A specific outcome is present for the provider when the specific outcome is determined to be present for 75 percent or more of the consumers interviewed. A specific process is present for the provider when the process is determined to be present for 75 percent or more of the consumers interviewed. Since the processes are in the control of the provider and the outcomes are more in the control of the consumer, length of certification will be based more heavily on whether or not the processes are in place to help consumers obtain desired outcomes.

An exit conference shall be held with the organization to share preliminary findings of the certification review. A review report shall be written and sent to the provider within 30 calendar days unless the parties mutually agree to extend that time frame.

Provider certification shall become effective on the date identified on the Certificate of Approval, Form 470-3410, and shall terminate in 270 calendar days, one year, or three calendar years from the month of issue. The renewal of certification shall be contingent upon demonstration of continued compliance with certification requirements.

c. The department may issue four categories of recertification:

(1) *Three-year certification with excellence.* An organization is eligible for certification with excellence if the number of processes present is 18 or higher and the number of outcomes and corresponding processes present together is 12 or higher. Both criteria need to be met to receive three-year certification with excellence. Corrective actions may be required which may be monitored through the assignment of follow-up monitoring either by written report, a plan of corrective actions and improvements, an on-site review, or the provision of technical assistance.

(2) *Three-year certification with follow-up monitoring.* An organization is eligible for this type of certification if the number of processes present is 17 or higher and the number of outcomes and corresponding processes present together are 11 or higher. Both criteria need to be met to receive three-year certification. Corrective actions are required which may be monitored through the assignment of follow-up monitoring either by written report, a plan of corrective actions and improvements, an on-site review, or the provision of technical assistance.

(3) *One-year certification.* An organization is eligible for this type of certification when the number of processes present is 14 or higher and the number of outcomes and processes together is 9 or higher. Both criteria need to be met to receive one-year certification. One-year certification may also be given in lieu of longer certification when previously required corrective actions have not been implemented or completed. Corrective actions are required which may be monitored through the assignment of follow-up monitoring either by written report, a plan of corrective actions and improvements, an on-site review, or the provision of technical assistance.

(4) *Probational certification.* A probational certification may be issued to those providers who cannot meet requirements for a one-year certification. This time period shall be granted to the provider to establish and implement corrective actions and improvement activities. During this time period the department may require monitoring of the implementation of the corrective actions through on-site visits, written reports or technical assistance. Probational certification issued for 270 calendar days shall not be renewed or extended, and shall require a full on-site follow-up review to be completed. The provider shall be required to achieve at least a one-year certification status at the time of the follow-up review in order to maintain certification.

d. During the course of the review, if a team member encounters a situation which places a consumer in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. "Immediate jeopardy" refers to circumstances where the life, health, or safety of a consumer will be severely jeopardized if the circumstances are not immediately corrected. The situation shall be corrected by the provider within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, that portion of the provider's services which were the subject of the notification shall not be certified. The department, the county of residence, and the central point of coordination shall be notified immediately to discontinue funding for that provider's service. If this action is appealed and the consumer or legal guardian wants to maintain the provider's services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the consumers deemed to be at risk as a result of the provider's inaction.

e. As a mandatory reporter, each team member shall be required to follow appropriate procedure in all cases where a condition reportable to child and adult protective services is observed.

f. The department may grant an extension to the period of approval for the following reasons:

(1) A delay in the department's approval decision which is beyond the control of the provider or department.

(2) A request for an extension from a provider to permit the provider to prepare and obtain department approval of corrective actions. The department shall establish the length of extensions on a case-by-case basis.

g. The department may revoke the provider's approval at any time for any of the following reasons:

(1) Findings of a site visit indicate that the provider has failed to implement the corrective actions submitted pursuant to paragraph 77.37(13) "e."

(2) The provider has failed to provide information requested pursuant to paragraph 77.37(13) "f."

(3) The provider refuses to allow the department to conduct a site visit pursuant to paragraph 77.37(13) "h."

(4) There are instances of noncompliance with the standards which were not identified from information submitted on the application.

h. An approved provider shall immediately notify the department, applicable county, the applicable mental health and developmental disabilities planning council, and other interested parties of a decision to withdraw from an HCBS MR waiver service.

i. Following certification, any provider may request technical assistance from the department to bring into conformity those areas found in noncompliance with HCBS requirements. If multiple deficiencies are noted during a review, the department may require that technical assistance be provided to a provider to assist in the implementation of the provider's corrective actions. Providers may be given technical assistance as needed.

j. Appeals. Any adverse action can be appealed by the provider under 441—Chapter 7.

**77.37(13)** *Review of providers.* Reviews of compliance with standards as indicated in this chapter shall be conducted by designated members of the HCBS staff.

a. This review may include on-site case record audits; review of administrative procedures, clinical practices, personnel records, performance improvement systems and documentation; and interviews with staff, consumers, the board of directors, or others deemed appropriate, consistent with the confidentiality safeguards of state and federal laws.

b. A review visit shall be scheduled with the provider with additional reviews conducted at the discretion of the department.

c. The on-site review team will consist of designated members of the HCBS staff.

d. Following a certification review, the certification review team leader shall submit a copy of the department's written report of findings to the provider within 30 working days after completion of the certification review.

e. The provider shall develop a plan of corrective action, if applicable, identifying completion time frames for each review recommendation.

f. Providers required to make corrective actions and improvements shall submit the corrective action and improvement plan to the Division of Mental Health and Developmental Disabilities, 5th Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114 within 30 working days after the receipt of a report issued as a result of the review team's visit. The corrective actions may include: specific problem areas cited, corrective actions to be implemented by the provider, dates by which each corrective measure will be completed, and quality assurance and improvement activities to measure and ensure continued compliance.

g. The department may request the provider to supply subsequent reports on implementation of a corrective action plan submitted pursuant to 77.37(13) "e" and 77.37 (13) "f."

h. The department may conduct a site visit to verify all or part of the information submitted.

**77.37(14)** *Supported community living providers.*

a. The department will contract only with public or private agencies to provide the supported community living service. The department does not recognize individuals as service providers under the supported community living program.

b. Providers of services meeting the definition of foster care shall also be licensed according to applicable 441—Chapters 108, 112, 114, 115, and 116.

c. Providers of service may employ or contract with individuals meeting the definition of foster family homes to provide supported community living services. These individuals shall be licensed according to applicable 441—Chapters 112 and 113.

d. All supported community living providers shall meet the following requirements:

(1) The provider shall demonstrate how the provider will meet the outcomes and processes in rule 441—77.37(249A) for each of the consumers being served. The provider shall supply timelines showing how the provider will come into compliance with rules 441—77.37(249A), 441—78.41(249A), and 441—83.60(249A) to 441—83.70(249A) and 441—subrule 79.1(15) within one year of certification. These timelines shall include:

1. Implementation of necessary staff training and consumer input.

2. Implementation of provider system changes to allow for flexibility in staff duties, services based on what each individual needs, and removal of housing as part of the service.

(2) The provider shall demonstrate that systems are in place to measure outcomes and processes for individual consumers before certification can be given.

e. Living units designed to serve more than three supported community living recipients shall be approved only as follows:

(1) Living units designed to serve four recipients shall be approved subject to all of the following conditions:

1. Only existing residential facility structures owned or operated by the provider as of November 4, 1994, shall be used.

2. The provider shall provide justification of the need for the service to be provided in a four-person living unit instead of a living unit for three persons or less.

3. The requirements of Iowa Code paragraph 135C.6(8)“b” shall be met.

(2) The department shall approve a total of 20 living units for five persons or fewer which are licensed as residential care facilities for persons with mental retardation. The residential care facility shall surrender the facility license and continue to operate under the medical assistance home- and community-based services waiver for persons with mental retardation. Applications from providers for conversion shall be submitted to the Division of Mental Health and Developmental Disabilities, Hoover State Office Building, Fifth Floor, Des Moines, Iowa 50319-0114.

1. There shall be four conversions in each of the department’s five service regions. The department may reallocate any unused conversion authorization to another region.

2. Recommendations for conversions will be made to the department by an advisory committee set up for each of the five regions. For each region the members shall include all of the central point of coordination administrators, with an advisory representative from the department. Each region shall submit its recommendation for the allocation of its four facilities currently licensed as residential care facilities for persons with mental retardation that will convert to home- and community-based waiver services for persons with mental retardation.

3. Approval of providers shall be made by the department’s mental health and developmental disabilities division. Approval of providers shall be based on the advisory committee’s recommendation, the geographical distribution of providers, and the counties’ written assurance that they will request sufficient slots for the consumers to be served and agree to provide necessary funding.

(3) Subject to federal approval, a residential program which serves not more than eight individuals and is licensed as an intermediate care facility for persons with mental retardation may surrender the facility license and continue to operate under the home- and community-based services waiver for persons with mental retardation if the department has approved the timelines submitted by the residential program pursuant to subparagraph 77.37(14)“d”(1).



**77.37(15) *Respite providers.*** The department will contract only with public or private agencies to provide respite services. The department does not recognize individuals as service providers under the respite program.

The following agencies may provide HCBS MR respite services:

a. Providers of services meeting the definition of foster care or day care licensed according to applicable 441—Chapters 108, 109, 112, 114, 115, and 116.

Providers of services may employ or contract with individuals meeting the definition of foster family homes or family or group day care homes to provide respite services. These individuals shall be licensed according to applicable 441—Chapters 110, 112, and 113.

b. Nursing facilities, intermediate care facilities for the mentally retarded, and hospitals certified to participate in the Medicaid program.

c. RCF/MR facilities certified by the department of inspections and appeals.

d. Home health agencies provided they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

e. Day camps provided they are certified by the American Camping Association.

f. Adult day health services accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF).

**77.37(16) *Supported employment providers.***

a. Providers responsible for the payroll of consumers shall have policies that include, but are not limited to:

- (1) Consumer vacation, sick leave and holiday compensation.
- (2) Procedures for payment schedules and pay scale.
- (3) Procedures for provision of workers' compensation insurance.
- (4) Procedures for the determination and review of commensurate wages.
- (5) Department of labor requirements.

b. The department will contract only with public or private agencies to provide supported employment services. The department does not recognize individuals as service providers under the supported employment program.

**77.37(17) *Home and vehicle modification providers.*** A home and vehicle modification provider shall be an approved HCBS MR supported community living service provider and shall meet the following standards:

a. The provider shall obtain a binding contract with community business(es) to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, the company or individual's work to be performed, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage.

b. The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.41(4).

c. The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

d. The business, or the business's parent company or corporation, shall be in compliance with all legislation relating to prohibition of discriminatory practices.

**77.37(18) *Personal emergency response system providers.*** Personal emergency response system providers shall be agencies which meet the conditions of participation set forth in subrule 77.33(2) to maintain certification.

**77.37(19) Nursing providers.** The following nursing providers may provide HCBS MR nursing services:

*a.* Providers which are certified to participate in the Medicare program as home health agencies and which have an HCBS agreement with the department.

*b.* Individuals who meet the standards and requirements set forth in nursing board rules 655—Chapter 3, work under the direct orders of the HCBS MR consumer's physician, and have an HCBS agreement with the department.

**77.37(20) Home health aide providers.** Home health aide providers shall be agencies which are certified to participate in the Medicare program as home health agencies and which have an HCBS agreement with the department.

**77.37(21) Consumer-directed attendant care service providers.** The following providers may provide consumer-directed attendant care service:

*a.* An individual who contracts with the consumer to provide attendant care service and who is:

(1) At least 18 years of age.

(2) Qualified by training or experience to carry out the consumer's plan of care pursuant to the department-approved case plan or individual comprehensive plan.

(3) Not the spouse of the consumer or a parent or stepparent of a consumer aged 17 or under.

(4) Not the recipient of respite services paid through home- and community-based services on the behalf of a consumer who receives home- and community-based services.

*b.* Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).

*c.* Home health agencies which are certified to participate in the Medicare program.

*d.* Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating that the organization is qualified to provide chore services.

*e.* Community action agencies as designated in Iowa Code section 216A.93.

*f.* Providers certified under an HCBS waiver for supported community living.

*g.* Assisted living programs that are voluntarily accredited or certified by the department of elder affairs.

*h.* Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.38(249A) Rehabilitative treatment service providers.** Rehabilitative treatment service providers are eligible to participate in the Medicaid program if they are certified to be providers pursuant to rules 441—185.9(234) to 441—185.11(234).

This rule is intended to implement Iowa Code section 249A.4.

**441—77.39(249A) HCBS brain injury waiver service providers.** Adult day care, behavioral programming, case management, consumer-directed attendant care, family counseling and training, home and vehicle modification, personal emergency response, prevocational service, respite, specialized medical equipment, supported community living, supported employment, and transportation providers shall be eligible to participate as approved brain injury waiver service providers in the Medicaid program based on the applicable subrules pertaining to the individual service and provided that they and each of their staff involved in direct consumer service have training regarding or experience with consumers who have a brain injury. In addition, behavioral programming, supported community living, and supported employment providers shall meet the outcome-based standards set forth below in subrules 77.39(1) and 77.39(2) evaluated according to subrules 77.39(8) to 77.39(10), and the requirements of subrules 77.39(3) to 77.39(7). Respite providers shall also meet the standards in subrule 77.39(1).

**77.39(1) Organizational standards (Outcome 1).** Organizational outcome-based standards for HCBS BI providers are as follows:

a. The organization demonstrates the provision and oversight of high-quality supports and services to consumers.

b. The organization demonstrates a defined mission commensurate with consumers' needs, desires, and abilities.

c. The organization establishes and maintains fiscal accountability.

d. The organization has qualified staff commensurate with the needs of the consumers they serve. These staff demonstrate competency in performing duties and in all interactions with clients.

e. The organization provides needed training and supports to its staff. This training includes at a minimum:

(1) Consumer rights.

(2) Confidentiality.

(3) Provision of consumer medication.

(4) Identification and reporting of child and dependent adult abuse.

(5) Individual consumer support needs.

f. The organization demonstrates methods of evaluation.

(1) Past performance is reviewed.

(2) Current functioning is evaluated.

(3) Plans are made for the future based on the evaluation and review.

g. Consumers and their legal representatives have the right to appeal the provider's implementation of the 20 outcomes, or staff or contractual person's action which affects the consumer. The provider shall distribute the policies for consumer appeals and procedures to consumers.

h. The provider shall have written policies and procedures and a staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to 441—Chapters 175 and 176.

i. The governing body has an active role in the administration of the agency.

j. The governing body receives and uses input from a wide range of local community interests and consumer representation and provides oversight that ensures the provision of high-quality supports and services to consumers.

**77.39(2) Rights and dignity.** Outcome-based standards for rights and dignity are as follows:

- a. (Outcome 2) Consumers are valued.
- b. (Outcome 3) Consumers live in positive environments.
- c. (Outcome 4) Consumers work in positive environments.
- d. (Outcome 5) Consumers exercise their rights and responsibilities.
- e. (Outcome 6) Consumers have privacy.
- f. (Outcome 7) When there is a need, consumers have support to exercise and safeguard their rights.
- g. (Outcome 8) Consumers decide which personal information is shared and with whom.
- h. (Outcome 9) Consumers make informed choices about where they work.
- i. (Outcome 10) Consumers make informed choices on how they spend their free time.
- j. (Outcome 11) Consumers make informed choices about where and with whom they live.
- k. (Outcome 12) Consumers choose their daily routine.
- l. (Outcome 13) Consumers are a part of community life and perform varied social roles.
- m. (Outcome 14) Consumers have a social network and varied relationships.
- n. (Outcome 15) Consumers develop and accomplish personal goals.
- o. (Outcome 16) Management of consumers' money is addressed on an individualized basis.
- p. (Outcome 17) Consumers maintain good health.
- q. (Outcome 18) The consumer's living environment is reasonably safe in the consumer's home and community.
- r. (Outcome 19) The consumer's desire for intimacy is respected and supported.
- s. (Outcome 20) Consumers have an impact on the services they receive.

**77.39(3) The right to appeal.** Consumers and their legal representatives have the right to appeal the provider's application of policies or procedures, or any staff or contractual person's action which affects the consumer. The provider shall distribute the policies for consumer appeals and procedures to consumers.

**77.39(4) Storage and provision of medication.** If the provider stores, handles, prescribes, dispenses or administers prescription or over-the-counter medications, the provider shall develop procedures for the storage, handling, prescribing, dispensing or administration of medication. For controlled substances, procedures shall be in accordance with department of inspections and appeals rule 481—63.18(135).

**77.39(5) Research.** If the provider conducts research involving consumers, the provider shall have written policies and procedures addressing the research. These policies and procedures shall ensure that consumers' rights are protected.

**77.39(6) Abuse reporting requirements.** The provider shall have written policies and procedures and a staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to 441—Chapters 175 and 176.

**77.39(7) Intake, admission, service coordination, discharge, and referral.**

- a. The provider shall have written policies and procedures according to state and federal laws for intake, admission, service coordination, discharge and referral.
- b. The provider shall ensure the rights of persons applying for services.

**77.39(8) *Certification process.*** Reviews of compliance with standards for initial certification and recertification shall be conducted by the department of human services' division of mental health and developmental disabilities quality assurance staff. Certification carries no assurance that the approved provider will receive funding.

*a.* The provider shall request an application from CONSULTEC.

*b.* The provider shall submit an application to CONSULTEC using Form 470-2917, HCBS Application for Certification. The application shall be submitted to Provider Enrollment, CONSULTEC, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422.

*c.* The applicant shall submit the completed application to CONSULTEC at least 90 days before the planned service implementation date. CONSULTEC shall forward the application to the department for processing.

*d.* The department may request any information from the prospective service provider which is considered pertinent to arriving at a certification decision. This may include, but is not limited to:

(1) Current accreditations, evaluations, inspections and reviews by regulatory and licensing agencies and associations.

(2) Fiscal capacity of the prospective provider to initiate and operate the specified programs on an ongoing basis.

(3) The prospective provider's written agreement to work cooperatively with the state and central point of coordination in the counties and the state to be served by the provider.

**77.39(9) *Initial certification.*** The department shall review the application and accompanying information to see if the provider has the necessary framework to provide services in accordance with all applicable requirements and standards.

*a.* The department shall make a determination regarding initial certification within 60 days of receipt of the application and notify the provider in writing of the decision unless extended by mutual consent of the parties involved. Providers shall be responsible for notifying the appropriate county and the appropriate central point of coordination of the determination.

*b.* The decision of the department on initial certification of the providers shall be based on all relevant information, including:

(1) The application for status as an approved provider according to requirements of rules.

(2) A determination of the financial position of the prospective provider in relation to its ability to meet the stated need.

(3) The prospective provider's coordination of service design, development, and application with the applicable local county central point of coordination and other interested parties.

*c.* Providers applying for initial certification shall be offered technical assistance.

**77.39(10) *Period of certification.*** Provider certification shall become effective on the date identified on the certificate of approval and shall terminate in 270 calendar days, one year, or three calendar years from the month of issue. The renewal of certification shall be contingent upon demonstration of continued compliance with certification requirements.

*a.* Initial certification. Providers eligible for initial certification by the department shall be issued an initial certification for 270 calendar days based on documentation provided.

*b.* Recertification. After the initial certification, the level of certification shall be based on an on-site review unless the provider has been accredited for similar services by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation of Rehabilitation Facilities (CARF), the Council on Quality and Leadership in Supports for People with Disabilities (The Council), or the Council on Accreditation of Services for Families and Children (COA). The on-site reviews for supported community living and supported employment use interviews with consumers and significant people in the consumer's life to determine whether or not the 20 individual value-based outcomes set forth in subrules 77.39(1) and 77.39(2) and corresponding processes are present for the consumer. Respite services are required to meet Outcome 1 and participate in satisfaction surveys.

Once the outcomes and processes have been determined for all the consumers in the sample, a review team then determines which of the 20 outcomes and processes are present for the provider. A specific outcome is present for the provider when the specific outcome is determined to be present for 75 percent or more of the consumers interviewed. A specific process is present for the provider when the process is determined to be present for 75 percent or more of the consumers interviewed. Since the processes are in the control of the provider and the outcomes are more in the control of the consumer, length of certification will be based more heavily on whether or not the processes are in place to help consumers obtain desired outcomes.

An exit conference shall be held with the organization to share preliminary findings of the certification review. A review report shall be written and sent to the provider within 30 calendar days unless the parties mutually agree to extend that time frame.

Provider certification shall become effective on the date identified on the Certificate of Approval, Form 470-3410, and shall terminate in 270 calendar days, one year, or three calendar years from the month of issue. The renewal of certification shall be contingent upon demonstration of continued compliance with certification requirements.

c. The department may issue four categories of recertification:

(1) *Three-year certification with excellence.* An organization is eligible for certification with excellence if the number of processes present is 18 or higher and the number of outcomes and corresponding processes present together is 12 or higher. Both criteria need to be met to receive three-year certification with excellence. Corrective actions may be required which may be monitored through the assignment of follow-up monitoring either by written report, a plan of corrective actions and improvements, an on-site review, or the provision of technical assistance.

(2) *Three-year certification with follow-up monitoring.* An organization is eligible for this type of certification if the number of processes present is 17 or higher and the number of outcomes and corresponding processes present together is 11 or higher. Both criteria need to be met to receive three-year certification. Corrective actions are required which may be monitored through the assignment of follow-up monitoring either by written report, a plan of corrective actions and improvements, an on-site review, or the provision of technical assistance.

(3) *One-year certification.* An organization is eligible for this type of certification when the number of processes present is 14 or higher and the number of outcomes and processes present together is 9 or higher. Both criteria need to be met to receive one-year certification. One-year certification may also be given in lieu of longer certification when previously required corrective actions have not been implemented or completed. Corrective actions are required which may be monitored through the assignment of follow-up monitoring either by written report, a plan of corrective actions and improvements, an on-site review, or the provision of technical assistance.

(4) *Probational certification.* A probational certification may be issued to those providers who cannot meet requirements for a one-year certification. This time period shall be granted to the provider to establish and implement corrective actions and improvement activities. During this time period the department may require monitoring of the implementation of the corrective actions through on-site visits, written reports or technical assistance. Probational certification issued for 270 calendar days shall not be renewed or extended and shall require a full on-site follow-up review to be completed. The provider shall be required to achieve at least a one-year certification status at the time of the follow-up review in order to maintain certification.

d. During the course of the review, if a team member encounters a situation which places a consumer in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. "Immediate jeopardy" refers to circumstances where the life, health, or safety of a consumer will be severely jeopardized if the circumstances are not immediately corrected. The situation shall be corrected by the provider within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, that portion of the provider's services which were the subject of the notification shall not be certified. The department, the county of residence, and the central point of coordination shall be notified immediately to discontinue funding for that provider's service. If this action is appealed and the consumer or legal guardian wants to maintain the provider's services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the consumers deemed to be at risk as a result of the provider's inaction.

e. As a mandatory reporter, each team member shall be required to follow appropriate procedure in all cases where a condition reportable to child and adult protective services is observed.

f. The department may grant an extension to the period of approval for the following reasons:

(1) A delay in the department's approval decision which is beyond the control of the provider or department.

(2) A request for an extension from a provider to permit the provider to prepare and obtain department approval of corrective actions. The department shall establish the length of extensions on a case-by-case basis.

g. The department may revoke the provider's approval at any time for any of the following reasons:

(1) Findings of a site visit indicate that the provider has failed to implement the corrective actions submitted pursuant to paragraph 77.39(11) "d."

(2) The provider has failed to provide information requested pursuant to paragraph 77.39(11) "e."

(3) The provider refuses to allow the department to conduct a site visit pursuant to paragraph 77.39(11) "f."

(4) There are instances of noncompliance with the standards which were not identified from information submitted on the application.

h. An approved provider shall immediately notify the department, applicable county, the applicable mental health and developmental disabilities planning council, and other interested parties of a decision to withdraw from an HCBS BI waiver service.

i. Following certification, any provider may request technical assistance from the department to bring into conformity those areas found in noncompliance with HCBS requirements. If multiple deficiencies are noted during a review, the department may require that technical assistance be provided to a provider to assist in the implementation of the provider's corrective actions. Providers may be given technical assistance as needed.

j. Appeals. Any adverse action can be appealed by the provider under 441—Chapter 7.

**77.39(11) Departmental reviews.** Reviews of compliance with standards as indicated in this chapter shall be conducted by the division of mental health and developmental disabilities quality assurance review staff. This review may include on-site case record audits, administrative procedures, clinical practices, and interviews with staff, consumers, and board of directors consistent with the confidentiality safeguards of state and federal laws.

a. Reviews shall be conducted annually with additional reviews conducted at the discretion of the department.

b. Following a departmental review, the department shall submit a copy of the department's determined survey report to the service provider, noting service deficiencies and strengths.

c. The service provider shall develop a plan of corrective action identifying completion time frames for each survey deficiency.

d. The corrective action plan shall be submitted to the Division of Mental Health and Developmental Disabilities, 5th Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114, and include a statement dated and signed, if applicable, by the chief administrative officer and president or chairperson of the governing body that all information submitted to the department is accurate and complete.

e. The department may request the provider to supply subsequent reports on implementation of a corrective action plan submitted pursuant to paragraphs 77.39(11)“c” and “d.”

f. The department may conduct a site visit to verify all or part of the information submitted.

**77.39(12) Case management service providers.** Case management provider organizations are eligible to participate in the Medicaid HCBS brain injury waiver program provided that they meet the standards in 441—Chapter 24 and they are the department of human services, a county or consortium of counties, or a provider under subcontract to the department or a county or consortium of counties.

**77.39(13) Supported community living providers.**

a. The department shall certify only public or private agencies to provide the supported community living service. The department does not recognize individuals as service providers under the supported community living program.

b. Providers of services meeting the definition of foster care shall also be licensed according to applicable 441—Chapters 108, 112, 114, 115, and 116, which deal with foster care licensing.

c. Providers of service may employ or contract with individuals meeting the definition of foster family homes to provide supported community living services. These individuals shall be licensed according to applicable 441—Chapters 112 and 113, which deal with foster care licensing.

d. The department shall approve living units designed to serve not more than four supported community living consumers meeting criteria listed below:

(1) The department shall approve the four-person or less HCBS brain injury waiver living units on a statewide basis. Approval shall be according to the provider’s ability to meet the criteria in rule 441—77.39(249A). New four-person structures not owned or operated as of November 9, 1994, shall not be approved. Use of existing residential facility structures owned or operated by the provider as of November 9, 1994, must be justified by the need for the service to be provided in a four-person living unit instead of a three- or less person living unit. The geographic location of the program must be such so as to avoid an overconcentration of programs in an area.

(2) Providers of service may seek approval to provide supported community living services to not more than four HCBS brain injury waiver consumers per living unit according to subrule 77.39(8) if all consumers residing in the living unit receive on-site staff supervision during the entire time period consumers are present in the living unit and if each consumer’s individual comprehensive plan identifies and reflects the need for this amount of supervision.

**77.39(14) Respite service providers.** The department shall enter into a formal agreement only with public or private agencies to provide respite services. The department does not recognize individuals as service providers under the respite program. The following are eligible to be providers of respite service in the HCBS brain injury waiver if they have documented training or experience with persons with a brain injury:

a. Respite providers certified under the HCBS mental retardation waiver.

b. Providers of respite services which have been approved as a Medicaid vendor may provide in-home home health aid respite services or out-of-home medical facility respite services.

c. Child foster care facilities licensed by the department according to 441—Chapters 112 to 116.



- d. Camps accredited by the American Camping Association.
- e. Home care providers meeting the conditions of participation set forth in subrule 77.30(1).
- f. Providers of services meeting the definition of foster care or day care shall also be licensed according to applicable standards of 441—Chapters 108, 109, 112, 114, 115, and 116.
- g. Providers of services may employ or contract with individuals meeting the definition of foster family homes or family or group day care homes to provide respite services. These individuals shall be licensed according to applicable 441—Chapters 110, 112, and 113.
- h. Nursing facilities, intermediate care facilities for the mentally retarded, and hospitals certified to participate in the Medicaid program.
- i. RCF/MR facilities certified by the department of inspections and appeals.
- j. Home health agencies provided they are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

**77.39(15)** *Supported employment providers.*

a. Providers responsible for the payroll of consumers shall have policies that include, but are not limited to:

- (1) Consumer vacation, sick leave and holiday compensation.
- (2) Procedures for payment schedules and pay scale.
- (3) Procedures for provision of workers' compensation insurance.
- (4) Procedures for the determination and review of commensurate wages.
- (5) Both state and federal department of labor requirements.

b. The department shall certify only public or private agencies to provide supported employment services. The department does not recognize individuals as service providers under the supported employment program.

**77.39(16)** *Home and vehicle modification providers.* A home and vehicle modification provider shall be an approved HCBS brain injury waiver supported community living service provider and shall meet the following standards:

a. The provider shall obtain a binding contract with community businesses to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage.

b. The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.43(5).

c. The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

**77.39(17)** *Personal emergency response system providers.* Personal emergency response system providers shall be agencies which meet the conditions of participation set forth in subrule 77.33(2).

a. Providers shall be certified annually.

b. The service provider shall submit documentation to the department supporting continued compliance with the requirements set forth in subrule 77.33(2) 90 days before the expiration of the current certification.

**77.39(18)** *Transportation service providers.* This service is not to be provided at the same time as supported community service, which includes transportation. The following providers may provide transportation:

a. Area agencies on aging as designated in rule 321—4.4(231) or with letters of approval from the area agencies on aging stating the organization is qualified to provide transportation services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Regional transit agencies as recognized by the Iowa department of transportation.

d. Providers with purchase of service contracts to provide transportation pursuant to 441—Chapter 150.

e. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

**77.39(19) *Specialized medical equipment providers.*** The following providers may provide specialized medical equipment:

- a. Medical equipment and supply dealers participating as providers in the Medicaid program.
- b. Retail and wholesale businesses participating as providers in the Medicaid program which provide specialized medical equipment as defined in 441—subrule 78.43(8).

**77.39(20) *Adult day care providers.*** Adult day care providers shall meet one of the following conditions.

- a. The provider shall have a contract with the Veterans Administration to provide adult day health care.
- b. The provider shall meet one of the following sets of standards individually or as an integral service provided by an organization:

- (1) Standards of the Joint Commission on Accreditation of Health Care Organizations.
- (2) Standards set forth in rule 441—171.5(234).
- (3) Standards set forth in department of elder affairs rules 321—24.1(231) to 321—24.8(231).

**77.39(21) *Family counseling and training providers.*** Family counseling and training providers shall be one of the following:

- a. Providers which are certified under the community mental health center standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and III.

- b. Providers which are licensed as meeting the hospice standards and requirements set forth in department of inspections and appeals rules 481—Chapter 53 or which are certified to meet the standards under the Medicare program for hospice programs.

- c. Providers which are accredited under the mental health service provider standards established by the mental health and disabilities commission, set forth in 441—Chapter 24, Divisions I and IV.

- d. Providers which are qualified brain injury professionals. A qualified brain injury professional shall be one of the following who meets the educational and licensure or certification requirements for the profession as required in the state of Iowa and who has two years' experience working with people living with a brain injury: a psychologist; psychiatrist; physician; registered nurse; certified teacher; social worker; mental health counselor; physical, occupational, recreational, or speech therapist; or a person with a bachelor of arts or science degree in psychology, sociology, or public health.

**77.39(22) *Prevocational services providers.*** Providers of prevocational services must meet the Commission on Accreditation of Rehabilitation Facilities standards for work adjustment service providers.

**77.39(23) *Behavioral programming providers.*** Behavioral programming providers shall be required to have experience with or training regarding the special needs of persons with a brain injury. In addition, they must meet the following requirements.

- a. Behavior assessment, and development of an appropriate intervention plan, and periodic reassessment of the plan, and training of staff who shall implement the plan must be done by a qualified brain injury professional. Formal assessment of the consumers' intellectual and behavioral functioning must be done by a licensed psychologist or a psychiatrist who is certified by the American Board of Psychiatry.

A qualified brain injury professional is defined in paragraph 77.39(21) "d."

- b. Implementation of the plan and training and supervision of caregivers, including family members, must be done by behavioral aides who have been trained by a qualified brain injury professional with the qualifications described in paragraph 77.39(21) "d" and who are employees of one of the following:

- (1) Agencies which are certified under the community mental health center standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and III.

(2) Agencies which are licensed as meeting the hospice standards and requirements set forth in department of inspections and appeals rules 481—Chapter 53 or which are certified to meet the standards under the Medicare program for hospice programs.

(3) Agencies which are accredited under the mental health service provider standards established by the mental health and disabilities commission, set forth in 441—Chapter 24, Divisions I and IV.

(4) Home health aide providers meeting the standards set forth in subrule 77.33(3). Home health aide providers certified by Medicare shall be considered to have met these standards.

(5) Supported community living providers certified under rules 441—77.39(13).

**77.39(24) Consumer-directed attendant care service providers.** The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the consumer to provide attendant care service and who is:

(1) At least 18 years of age.

(2) Qualified by training or experience to carry out the consumer's plan of care pursuant to the department-approved case plan or individual comprehensive plan.

(3) Not the spouse of the consumer or a parent or stepparent of a consumer aged 17 or under.

(4) Not the recipient of respite services paid through home- and community-based services on the behalf of a consumer who receives home- and community-based services.

b. Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).

c. Home health agencies which are certified to participate in the Medicare program.

d. Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating that the organization is qualified to provide chore services.

e. Community action agencies as designated in Iowa Code section 216A.93.

f. Providers certified under an HCBS waiver for supported community living.

g. Assisted living programs that are voluntarily accredited or certified by the department of elder affairs.

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.

**441—77.40(249A) Lead inspection agency providers.** Lead inspection agency providers are eligible to participate in the Medicaid program if they are certified pursuant to 641—subrule 70.5(4), department of public health.

This rule is intended to implement Iowa Code section 249A.4.

**441—77.41(249A) HCBS physical disability waiver service providers.** Consumer-directed attendant care, home and vehicle modification, personal emergency response system, specialized medical equipment, and transportation service providers shall be eligible to participate as approved physical disability waiver service providers in the Medicaid program based on the applicable subrules pertaining to the individual service. Enrolled providers shall maintain the certification listed in the applicable subrules in order to remain eligible providers.

**77.41(1) Enrollment process.** Reviews of compliance with standards for initial enrollment shall be conducted by the department's division of medical services quality assurance staff. Enrollment carries no assurance that the approved provider will receive funding.

Review of a provider may occur at any time.

The department may request any information from the prospective service provider that is pertinent to arriving at an enrollment decision. This may include, but is not limited to:

- a. Current accreditations, evaluations, inspection reports, and reviews by regulatory and licensing agencies and associations.
- b. Fiscal capacity of the prospective provider to initiate and operate the specified programs on an ongoing basis.
- c. The prospective provider's written agreement to work cooperatively with the state and central point of coordination in the counties to be served by the provider.

**77.41(2) *Consumer-directed attendant care providers.*** The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the consumer to provide consumer-directed attendant care and who is:

- (1) At least 18 years of age.
- (2) Qualified by training or experience to carry out the consumer's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
- (3) Not the spouse or guardian of the consumer.
- (4) Not the recipient of respite services paid through home- and community-based services on behalf of a consumer who receives home- and community-based services.

b. Home care providers that have a contract with the department of public health or have written certification from the department of public health stating that they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).

- c. Home health agencies that are certified to participate in the Medicare program.
- d. Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating that the organization is qualified to provide chore services.
- e. Community action agencies as designated in Iowa Code section 216A.103.
- f. Providers certified under an HCBS waiver for supported community living.
- g. Assisted living programs that are voluntarily accredited or certified by the department of elder affairs.

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25.

**77.41(3) *Home and vehicle modification providers.*** A home and vehicle modification provider shall be either:

a. An approved HCBS brain injury or mental retardation supported community living service provider that meets all the following standards:

- (1) The provider shall obtain a binding contract with a community business to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage.
- (2) The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.46(2).
- (3) The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

*b.* A community business that performs the work and meets all the following standards:

(1) The community business shall enter into binding contracts with consumers to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage.

(2) The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.46(2).

(3) The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

**77.41(4) *Personal emergency response system providers.*** Personal emergency response system providers shall be agencies which meet the conditions of participation set forth in subrule 77.33(2).

**77.41(5) *Specialized medical equipment providers.*** The following providers may provide specialized medical equipment:

*a.* Medical equipment and supply dealers participating as providers in the Medicaid program.

*b.* Retail and wholesale businesses participating as providers in the Medicaid program which provide specialized medical equipment as defined in 441—subrule 78.46(4).

**77.41(6) *Transportation service providers.*** The following providers may provide transportation:

*a.* Area agencies on aging as designated in 321—4.4(231) or with letters of approval from the area agencies on aging stating the organization is qualified to provide transportation services.

*b.* Community action agencies as designated in Iowa Code section 216A.93.

*c.* Regional transit agencies as recognized by the Iowa department of transportation.

*d.* Nursing facilities licensed pursuant to Iowa Code chapter 135C.

This rule is intended to implement Iowa Code section 249A.4.

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